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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,248	10/16/2003	Noritaka Kimura	SHIBP008	4582

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EXAMINER

LERNER, AVRAHAM H

ART UNIT PAPER NUMBER

3611

DATE MAILED: 06/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/688,248

Applicant(s)

KIMURA ET AL.

Examiner

Avraham Lerner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-21 is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☒ Claim(s) 4-6 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. ____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 0304.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

2. The Information Disclosure Statement, filed March 12, 2004, is acknowledged and has been considered.

Specification

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, **such as "means" and "said,"** should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

4. The abstract of the disclosure is objected to because the use of the word "means" (appearing 6 times) is improper. Correction is required. See MPEP § 608.01(b).
5. In line 2 of the section headed "description of the related art", the word "severally" is improper and should be corrected.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Dugas (U.S. Patent No. 5,984,334).

Dugas teaches a wheelchair having all elements as claimed, including a seat, a pair of rear wheels fixed to axle shafts arranged below the seat and arranged outside both sides of the seat, a grasping portion arranged rearwardly of the seat to be grasped and operated by a helper, at least one front wheel arranged forwardly of the axle shafts, actuation plates provided in juxtaposition with the seat to descend when a user sits on the seat to lower the seat with the weight and to ascend when the user rises from the seat to permit the seat to return with removal of the weight, brake means mounted on the axle shafts to brake the axle shafts and energized constantly in a non-braking direction, and levers coupled directly or indirectly to the brake means to move according to descending motions of the actuation plates to act on the brake means to put the brake means in a non-braking state and to move according to ascending motions of the actuation plates to act on the brake means to put the brake means in a braking state, and wherein when the user sits on the seat, the user's body weight causes the seat to descend and the actuation plates to move downward and positional movements of the actuation plates cause the levers to move to release braking on the axle shafts by the brake means, and when the user having sat on the seat rises, the actuation plates having been pushed down by the user's body weight move

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upward and positional movements of the actuation plates cause the levers to move to permit the brake means to brake the axle shafts, the actuation plates are arranged on a back surface of the seat, and further comprising first bias means provided on the actuation plates and wherein the actuation plates are constantly biased upward by the first bias means.

Allowable Subject Matter

8. Claims 4-6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claims 7-21 are allowed.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Babilas (U.S. Patent No. 4,623,043), Dobben (U.S. Patent No. 5,894,912), Dugas (U.S. Patent No. 5,203,433), Conners et al. (U.S. Patent No. 6,739,610), Duran et al. (U.S. Patent No. 6,352,138), Ritchie et al. (U.S. Patent No. 6,371,503 B2), Wren (U.S. Patent Application Publication No. 2003/0146056 A1), and Usherovich (U.S. Patent No. 6,688,437) disclose wheelchairs having automatic braking assemblies.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Avraham Lerner whose telephone number is (703) 308-0423.

The examiner can normally be reached on M-F (8:15-5:45) first Wednesday off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (703) 308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AVRAHAM LERNER
PRIMARY EXAMINER

Ari Lerner 5/28/04

May 28, 2004